APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): October 1, 2007

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Walla Walla, Harley Wilcox/John Grabow, NWW-2005-3300011

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Idaho County/parish/borough: Teton City: Driggs
Center coordinates of site (lat/long in degree decimal format): 43.71031392° Lat. -111.11091289° Long.
Universal Transverse Mercator: Zone 12 Northing 4839488.978 **Pick List**, Easting 491064.250 **Pick List**.
Name of nearest waterbody: Teton Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Teton River
Name of watershed or Hydrologic Unit Code (HUC): Teton Idaho, Wyoming
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: September 24, 2007
☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.
a. Indicate presence of waters of U.S. in review area (check all that apply): [1]
☐ TNWs, including territorial seas
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☒ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: N/A linear feet: N/A width (ft) and/or acres.
Wetlands: 0.537 acres.

c. Limits (boundaries) of jurisdiction based on: **1987 Delineation Manual**
Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):[3]
☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: .

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:
Watershed size: 74.05 **square miles**
Drainage area: 66.22 **square miles**
Average annual rainfall: 38.3, most falling as snowfall inches
Average annual snowfall: See above inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☒ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **1 (or less)** river miles from TNW. See answers below in Section II.B.2. Teton Creek is an RPW that flows directly into Teton River, a TNW. There are no river or aerial miles between Teton Creek and Teton River.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **1 (or less)** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: Teton Creek starts in Wyoming and flows into Idaho.

Identify flow route to TNW[5]: Teton Creek flows into the Teton River. The Teton River is a TNW.

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

Tributary stream order, if known: .

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

Tributary properties with respect to top of bank (estimate):

Average width: 50 feet. Historically however the middle section of Teton Creek would likely have been braided and much wider.

Average depth: 3 feet, but varies greatly. The stream is much deeper in the middle section although historically it likely would have been much less incised and would have a more braided appearance. Channel over deepening resulting from local attempts at flood control, gravel removal, or gravel mining have caused in a more incised channel.

Average side slopes: Vertical (1:1 or less) in the middle section, closer to 2:1 in the lower section.

Primary tributary substrate composition (check all that apply):

☐ Silts	☐ Sands	☐ Concrete
☒ Cobbles	☒ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover:	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: Middle Teton Creek is largely unstable and destabilized due to past and on-going development activities. The riparian corridor has also been greatly influenced by past work and on-going irrigation diversions. Lower Teton Creek has a much more gradual grade and is largely stable.

Presence of run/riffle/pool complexes. Explain: Lower Teton Creek contains better fish habitat with run/riffle/pool complexes. Much of middle and upper Teton Creek has a grade that is too steep to support that diversity of habitat or it has been impacted by development and past land use, such as in stream gravel mining.

Tributary geometry: **Relatively straight**

Tributary gradient (approximate average slope): 6 to 49 based on USGS StreamStats website (6 %)

(c) Flow:

Tributary provides for: **Pick List.** Perennial flow.

Estimate average number of flow events in review area/year: **1**

Describe flow regime: Perennial in the lower and upper reaches. Intermittent in the middle section (flows between 1.5 to 3 months a year).

Other information on duration and volume: Again perennial in the lower and upper reaches and 1.5 to 3 months in the middle section. Volume 189 cubic feet/second as estimated by USGS StreamStats website.

Surface flow is: **Discrete and confined.** Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

☐ Dye (or other) test performed: .

Tributary has (check all that apply):

☒ Bed and banks

☒ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☒ destruction of terrestrial vegetation
☒ shelving	☒ the presence of wrack line
☒ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☒ scour
☒ sediment deposition	☒ multiple observed or predicted flow events
☐ water staining	☐ abrupt change in plant community
☐ other (list):	

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:	☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects	☐ survey to available datum;
☐ fine shell or debris deposits (foreshore)	☐ physical markings;
☐ physical markings/characteristics	☐ vegetation lines/changes in vegetation types.

[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
[7]Ibid.

☐ tidal gauges
☐ other (list):

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: Water is clear and cool in upper and middle sections, but becomes much more turbid in the lower stream section.

Identify specific pollutants, if known: Only known pollutant is suspended sediment, i.e. turbidity in the lower reach and mobile gravel and cobble in the middle reach that is the result of development and past land use.

(iv) Biological Characteristics. Channel supports (check all that apply):

☒ Riparian corridor. Characteristics (type, average width): Narrow in the lower reach (less than 50 feet in many areas) although in its natural state the riparian corridor is often indestinguishable from adjacent wetlands that form much of the Teton Valley floor. The middle section of Teton Creek has a fairly wide riparian corridor ranging in excess of 1,000 feet in places.

☒ Wetland fringe. Characteristics: In the lower section the wetland fringe is very pronounced, but hard to separate from other creek fringes and other valley wetlands resulting from a high water table. Wetlands along the middle section have been heavily impacted by channel over deepining and prevention of overland flood flows as well as irrigation diversions, all but destroying any fringe wetlands. A few however, are still to be found in relict high flow channels where the water table comes up high enough to influence the plant community.

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☒ Fish/spawn areas. Explain findings: Teton Creek from Highway 33 downstream is one of the best strongholds of Yellowstone Cutthroat Trout in the valley.

☒ Other environmentally-sensitive species. Explain findings: Bald eagles have been removed from the federal endangered species list but rely heavily on wooded riparian corridors such as those that occur along Teton Creek.

☒ Aquatic/wildlife diversity. Explain findings: Lower Teton Creek is important for local/native fisheries. The creek is also used by large mammals as a migratory corridor between the mountains and the valley floor. The creek and its riparian corridor also serves as important habitat for mammals, birds, amphibians, and reptiles.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size:0.537acres

Wetland type. Explain:Palustrine emergent wetlands - See NWI maps and Wetland Delineation Report prepared by Lone Goose Environmental.

Wetland quality. Explain:Low - due to use as pasture and proximity to a major road and other developments. The wetlands are also separated from wetlands to the west by railroad embankment.

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **No Flow** . Explain: The wetlands appear to be depressional, largely because they are separated from other natural wetlands along Teton Creek's Riparian Corridor by a road and railroad berm.

Surface flow is**: Not present**

Characteristics: See above. The wetlands do not experience flow and are the result of local runoff and high water table during some portion of the year.

Subsurface flow: **Yes**. Explain findings: Lone Goose's Wetland Delineation Report indicated that saturation and free water were observed in their wetland bore holes. The bore holes were dry on the surface, but became wetter with depth. This is indicative of wetting from below rather than above which would be the case with local irrigation or local runoff. Local runoff is also not likely the causitive factor in the wetness of the boreholes due to the time of sampling. Sampling was conducted in late July, which is well after snowmelt in the valley. Free water and saturation in the bore holes is then most likely the result of an elevated water table throughout and along the Teton Creek riparian corridor.

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☐ Directly abutting

☒ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☒ Separated by berm/barrier. Explain: Wetlands on the property are cut off from wetlands to west by a man-made railroad berm and are separated from Teton Creek itself by a small upland corridor paralleling the creek. This upland corridor is likely the result of natural stream processes forming a natural levee. This effect is sometimes referred to as the "red edge effect". Essentially

wetlands are found behind the natural upland barrier formed by the stream. It is termed a "red edge" because of the changes in soil chroma often observed in these areas.

(d) Proximity (Relationship) to TNW
Project wetlands are **5-10** river miles from TNW.
Project waters are **2-5** aerial (straight) miles from TNW.
Flow is from: **No Flow.**
Estimate approximate location of wetland as within the **20 - 50-year** floodplain.

(ii) Chemical Characteristics:
Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: No surface water.
Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):
☐ Riparian buffer. Characteristics (type, average width): .
☒ Vegetation type/percent cover. Explain:Herbaceous/emergent, approximately 95%.
☐ Habitat for:
☐ Federally Listed species. Explain findings: .
☐ Fish/spawn areas. Explain findings: .
☐ Other environmentally-sensitive species. Explain findings: .
☒ Aquatic/wildlife diversity. Explain findings: Areas may be used by small mammals, amphibians, reptiles, and insects due to close proximity to wooded riparian corridor along Teton Creek. Area is edge habitat, transitioning from wooded riparian corridor to open fields and pasture.

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: **3**
Approximately (7000) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
Y	5000		
Y	1000		
Y	1000		

Summarize overall biological, chemical and physical functions being performed: Wetlands adjacent to Teton Creek function to filter water improving water quality downstream and in the larger Teton River watershed. Wetlands adjacent to Teton Creek also serve as habitat for large and small mammals, birds, amphibians, reptiles, and insects. Wetlands adjacent to Teton Creek also serve to attenuate flooding from stormwater and snowmelt. The wetlands also serve as carbon and other geochemical cycling hotspots. There is rapid plant growth in these areas due to the availability of water. Some of this organic material ends up as detritus on the soil surface that gradually percolates through soil layers and into the water table where it is carried downstream and used as food by small detritus feeders that are then fed on by other organisms. Other plant material is consumed directly by herbivores. These plant communities also serve as habitat and refugia for organisms seeking food or water during drier parts of the year. Wetlands along the riparian corridor of Teton Creek also serve an important function as this corridor is literally a highway for organisms migrating between mountains and slopes down into the river valley and vice versa.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Wetlands adjacent to Teton Creek function to filter water improving water quality downstream and in the larger Teton River watershed. Wetlands adjacent to Teton Creek also serve as habitat for large and small mammals, birds, amphibians, reptiles, and insects. Wetlands adjacent to Teton Creek also serve to attenuate flooding from stormwater and snowmelt. The wetlands also serve as carbon and other geochemical cycling hotspots. There is rapid plant growth in these areas due to the availability of water. Some of this organic material ends up as detritus on the soil surface that gradually percolates through soil layers and into the water table where it is carried downstream and used as food by small detritus feeders that are then fed on by other organisms. Other plant material is consumed directly by herbivores. These plant communities also serve as habitat and refugia for organisms seeking food or water during drier parts of the year. Wetlands along the riparian corridor of Teton Creek also serve an important function as this corridor is literally a highway for organisms migrating between mountains and slopes down into the river valley and vice versa. Loss of these functions in wetlands along Teton Creek would have a severe and negative impact on Teton Creek, which would cascade to the Teton River. Cumulatively the loss of Teton Creek and its adjacent wetlands would severely impact local fisheries, including that of Yellowstone Cutthroat Trout. Research has shown that this reach of Teton Creek is important spawning and rearing habitat for this native fish species. This is especially important because Yellowstone Cutthroat Trout have substantially declined throughout much of the Teton River Basin, as well as across much of their range. The loss of the creek and its adjacent wetlands would also impact water quality, and habitat used by all manner of wildlife. This in turn would negatively effect many of the values that people have located to Teton Valley for including wildlife, fisheries, etc.

The significant nexus evaluation demonstrates that the RPW (Teton Creek) and its adjacent wetlands impact the physical, chemical, and biological integrity of a downstream TNW (Teton River). The RPW and its adjacent wetlands: 1) provide detention and attenuation of runoff and floodwaters from the site and the adjoining road and uplands; 2) conveys and filters sediments and other pollutants from the surrounding agricultural fields and roads to the TNW; 3) provide baseflow to the TNW during the drier months of the year; 4) support the food chain of the TNW through the creation and transfer of organic carbon and nutrients; and 5) provide feeding, staging and resting habitat for all types of wildlife.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☒ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: Teton Creek is perennial. Per recent Rapanos/Carabell guidance provided by HQ "the flow characteristics of a particular tributary will be evaluated at the farthest downstream limit of such a tributary (i.e., the point the tributary enters a higher order stream)". Even though the middle section of Teton Creek is intermittent, largely due to irrigation withdrawals, the lower end of Teton Creek is perennial. Therefore, for purposes of this analysis the stream is considered perennial.
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

     Provide estimates for jurisdictional waters in the review area (check all that apply):
     - ☐ Tributary waters: linear feet width (ft).
     - ☐ Other non-wetland waters: acres.
       Identify type(s) of waters: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   ☐ Tributary waters: linear feet width (ft).
   ☐ Other non-wetland waters: acres.
   Identify type(s) of waters: .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
   ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

   ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   ☒ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: **0.537** acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.[9]**
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).

[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Wetland Delineation Report prepared by Lone Goose Environmental, LLC.
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
☒ Office concurs with data sheets/delineation report.
☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps: .
☐ Corps navigable waters' study: .
☐ U.S. Geological Survey Hydrologic Atlas: .
☐ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: 1:24K Driggs.
☒ USDA Natural Resources Conservation Service Soil Survey. Citation: Teton County.
☒ National wetlands inventory map(s). Cite name: Driggs.
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date):2004, 2006, Unknown (ORM).
or ☒ Other (Name & Date): Unknown (provided by the applicant).
☒ Previous determination(s). File no. and date of response letter: 053300011 - August 17, 2005.
☒ Applicable/supporting case law: United States v. Moses No. 06-30379 (9th Circuit Court of Appeals, 2007).
☐ Applicable/supporting scientific literature: .
☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: .